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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,768	01/16/2004	Huey-Jiun Ngo	SKY03007	6314
25537 VERIZON PATENT MANAGEMENT GROUP 1515 N. COURTHOUSE ROAD SUITE 500 ARLINGTON, VA 22201-2909	7590 09/26/2008		<div>EXAMINER</div> <div>BROMELL, ALEXANDRIA Y</div>	
			<div>ART UNIT</div> <div>2167</div>	<div>PAPER NUMBER</div>
			<div>NOTIFICATION DATE</div> <div>09/26/2008</div>	<div>DELIVERY MODE</div> <div>ELECTRONIC</div>

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@verizon.com

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 10/758,768	Applicant(s) NGO ET AL.
Examiner ALEXANDRIA Y. BROMELL	Art Unit 2167

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 September 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-25.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Alexandria Y Bromell/
Examiner, Art Unit: 2167

/Shahid AI Alami/
Primary Examiner, Art Unit 2162

Continuation of 11, does NOT place the application in condition for allowance because:

With respect to independent claims 1, 15, 22, and 24, Applicant argues that nothing therein discloses storing a first information element "in a first data structure in the telemetry device when it is determined that the first information element includes the first priority level indication" and "storing the second information element in a second data structure in the telemetry device when it is determined that the second information element includes the second priority level indication," as claimed (Remarks, page 13).

Examiner responds that Duske teaches storing information elements (or messages) in a log (or queue) with respect to priority (or position in the queue) (column 8, lines 1 - 9), and the priority or position in the queue being influenced by priority levels of emergency, high, medium, or low (column 20, lines 60 - 63).

With respect to independent claims 1, 15, 22, and 24, Applicant argues that Duske, Jr. et al. fails to disclose the storage of two different information elements in two different data structures, and more importantly, storing these elements in response to a specified condition, i.e., "where it is determined that the first information element includes the first priority level indication" and when it is determined that the second information element includes the second priority level indication," (Remarks, pages 13-14).

Examiner responds that Duske teaches that the information elements are stored in separate messages. Duske also teaches that the priority or position of the message in the queue is influenced by priority levels of emergency, high, medium, or low (column 20, lines 60-63).

Applicant argues that Duske, Jr. et al. specifies no such condition of first and second information elements including, respectively, a "first priority level indication" and a "second priority level indication" prior to storing these information elements (Remarks, page 14).

Examiner responds that Duske also teaches that the priority or position of the message in the queue is influenced by priority levels of emergency, high, medium, or low (column 20, lines 60-63).

With respect to claim 8, Applicant argues that Duske, Jr. et al. clearly fails to disclose first and second data structures different than, or other than the device log (Remarks, page 14).

Examiner responds that there are separate message logs other than the outgoing device log. There may be one log for outgoing messages, and one log for saved (draft) messages (Fig 8-5).